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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,650	12/10/2001	Masanori Ohtsuka	2975.0012	2195

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EXAMINER

SMITH, ARTHUR A

ART UNIT	PAPER NUMBER
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2851

DATE MAILED: 03/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,650

Applicant(s)

OHTSUKA, MASANORI

Examiner

Arthur A Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-38 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 10 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/22/03 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Takagi (USPN 5319416).

In reference to claims 1, 10, 18 and 28, Takagi discloses a photometric device, ref. 10, comprising a first area (central area), ref. F1-F3, including a plurality of photoelectric transfer elements for performing photometry in the first area, ref. 11a-11d, a plurality of second areas, ref. 43a and B1-B24, each included in the first area and sharing photoelectric elements, ref. B1-B24, with the first area, for performing photometry in the plurality of second areas, see fig. 3 and col. 4 lines 9-18; and determination means (S5) for correcting a photometric result in the first area when a

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difference greater than a predetermined value exist among photometric results in the plurality of second areas, and determining whether a backlight state exists based on the corrected photometric result in the first area, col. 9 line 30 – col. 10 line 16.

In reference to claims 2 and 11, Takagi discloses wherein the determination means corrects the photometric result in the first area on the basis of a ratio of an average value of the photometric results in said plurality of second areas to a value indicating the highest luminance or lowest luminance of the photometric results in said plurality of second areas, col. 7 lines 3-25.

In reference to claims 3 and 12, Takagi wherein the determination means corrects the photometric result in the first area on the basis of a proportion of photometric results falling within a predetermined high-luminance range or low-luminance range of the photometric results in said plurality of second areas, col. 7 lines 3-25.

In reference to claims 4, 13, 23 and 33, Takagi discloses wherein the photometric device comprises an overall area including the first area and a peripheral area, ref. F4-F8, around the first area, and said determination means determines a backlight state exists when a difference greater than a predetermined reference value exists between the photometric result in the first area and a photometric result in a peripheral area around said predetermined area, col. 5 lines 5-64.

In reference to claims 5, 22 and 32, Takagi discloses a plurality of photoelectric conversion means, ref. B1-B24, arranged on the overall area where photometry can be performed, wherein a sum of outputs from photoelectric conversion means included in

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the first area or a value corresponding to an output indicating the lowest luminance of the outputs from the photoelectric conversion means included in said predetermined area is used as the photometric result in the first area, col. 4 lines 14-18 (shows the sum of certain conversion means representing the first area), and values corresponding to the outputs from the respective photoelectric conversion means included in the first area are used as the photometric results in said second areas, col. 4 lines 44-54.

In reference to claims 6, 14, 24 and 34, Takagi discloses a plurality of photoelectric conversion means, ref. B1-B24, arranged on the overall area where photometry can be performed, wherein a sum of outputs from photoelectric conversion means included in the first or a value corresponding to an output indicating the lowest luminance of the outputs from the photoelectric conversion means included in said predetermined area is used as the photometric result in the first area, col. 4 lines 14-18 (shows the sum of certain conversion means representing the first area), and a value corresponding to a sum of outputs from photoelectric conversion means other than the photoelectric conversion means included in the first area is used as a photometric result in a peripheral area, col. 5 line 27-40.

In reference to claims 7, 15, 25 and 35, Takagi discloses wherein the photometric device comprising an overall area including the first area and a peripheral area around the first area, and wherein said determination means determines a backlight state exists when a difference greater than a predetermined reference value exists between the photometric result in said predetermined area and a photometric result in said overall area, col. 5 lines 47-64.

In reference to claims 8, 16, 26 and 36, Takagi discloses a plurality of photoelectric conversion means, ref. B1-B24, arranged on the overall area where photometry can be performed, wherein a sum of outputs from photoelectric conversion means included in the first area or a value corresponding to an output indicating the lowest luminance of the outputs from the photoelectric conversion means included in said predetermined area is used as the photometric result in the first area, col. 4 lines 14-18 (shows the sum of certain conversion means representing the predetermined area), and a value corresponding to a sum of outputs from the photoelectric conversion means in the overall area is used as the photometric result in the overall area, col. 5 lines 47-64.

In reference to claims 9, 17, 27 and 37, Takagi discloses wherein a value corresponding to a sum of outputs from photoelectric conversion means included in the first area is used as the photometric result in the first area when at least one of the outputs from the photoelectric conversion means is less than a predetermined value, and a value corresponding to an output indicating the lowest luminance of the outputs from the photoelectric conversion means included in the first area is used as the photometric result in the first area when all the outputs from the photoelectric conversion means are greater than the predetermined value, col. 6 lines 23-49.

In reference to claims 19-21 and 29-31, Takagi discloses wherein photometry and distance measurement (AF) are performed in each of said plurality of second areas, col. 4 lines 4-14 and lines 44-54.

In reference to 38, Takagi discloses wherein operations for taking pictures are controlled on the basis of at least one of the photometric result in the first area and the backlight determination result, col. 10 lines 45-56.

Response to Arguments

Applicant's arguments filed 12/22/03 have been fully considered. Specifically the Applicant has argued that if ref. F4 of Takagi is considered to be the claimed "first area" then if it is assumed that the photoelectric transfer elements B1-B24 are shared by the first area F4 and the plurality of second areas F1-F3 then Takagi would fail to teach the claimed limitation of wherein the correction of photometric results of the first area F4 is determined when a difference greater than a predetermined value exists among photometric results in the plurality of second areas, F1-F3. In light of this argument the rejection has been rewritten so that the first area is represented by F1-F3 and the plurality of second areas is represented by ref. 43a and B1-24. This characterization would read on the claimed limitation.

The Applicant further argues that Takagi only discloses computing the exposure value and not a correction of the exposure value. The Examiner disagrees. Takagi discloses correction of the exposure as disclosed in col. 4 lines 34-39.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur A Smith whose telephone number is (571) 272 2129. The examiner can normally be reached on Monday - Thursday from 8:00 AM to

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5:30 PM. The examiner can also be reached on alternate Fridays during the same hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams can be reached on 571-272-2112. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arthur A. Smith
March 18, 2004